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ABSTRACT

The purpose of sound disciplinary practices and grievance procedures in juvenile detention and correctional facilities is outlined and a philosophy on discipline and grievance procedures is discussed. The use of secure confinement or restriction as a means of treatment, and the effects of restriction are considered. The basics of good discipline are reviewed and components of professionalization of child care workers are discussed. Major characteristics of good child care workers are enumerated. Guidelines for good disciplinary practices are listed. Major and minor rules for residents of juvenile facilities are discussed, specific rules are suggested, and consequences of rule violations are considered. Procedures for handling discipline and for processing major and minor rule violations are described. Sanctions, filing of reports, alternative and informal handling of offenses, and, for major offenses, the disposition process, are discussed. Procedures following criminal misconduct and procedures following emergencies or disruptions are outlined. Basic principles and policies for planning and implementing an effective grievance procedure system are given and the process of implementing a grievance mechanism is discussed. The purpose, policy, and procedures for an ombudsman system for grievance appeal are presented. (NRB)

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DISCIPLINE AND GRIEVANCE PROCEDURES

Juvenile Detention and Correctional Facilities

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DISCIPLINE AND GRIEVANCE PROCEDURES

Juvenile Detention and Correctional Facilities

Prepared for

The Office of Juvenile Justice
and Delinquency Prevention

U.S. Department of Justice

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January, 1985

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I. THE PURPOSE OF SOUND DISCIPLINARY PRACTICES AND GRIEVANCE PROCEDURES

A. Sound Disciplinary Practices

Sound policies and procedures are necessary to establish and promulgate a system of disciplinary proceedings in juvenile detention and correctional facilities. They ensure the orderly protection of residents/students, staff and the facility, and better prepare residents for successful community living by helping them to internalize needed controls and develop self-discipline.

Experience has shown that, without one uniform set of policies and procedures in a juvenile detention or correctional facility, staff in the various units, wings or cottages (and sometimes even in the same unit varying by shifts) will develop its own approach or system, resulting in disharmony, confusion, low morale among staff and residents, and a higher than usual incidence of grievances. Under such circumstances it is impossible to develop one team among child care staff; and the setting provides fertile grounds for youths to manipulate staff, just as some did at home where similar inconsistencies existed.

B. Sound Grievance Procedures

A formal student grievance procedure system, established through the joint efforts of staff and residents, will ensure that complaints by individual residents concerning disciplinary action, transfers, releases, and any other individual case matter, will be brought to the attention of appropriate staff for action.

An effective grievance mechanism can also help to improve the management of an institution or system. For example, an effective grievance procedure will identify policies and procedures that generate problems, and therefore require revision. A well-designed procedure, using the skills and knowledge of staff and residents who traditionally are not involved in institutional decision-making, is more likely to be implemented effectively than otherwise. Further, a good procedure may well divert many justifiable issues from the courts by providing quick and fair solutions to problems.[1]

In summary, a sound grievance procedure system is essential to the development and maintenance of a fair and just system of residential care, which improves

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[1]The Center for Community Justice, Grievance Procedures in Juvenile Corrections: A Manual (Washington: The Center for Community Justice, 1983) 1.

relations between staff and residents, and returns youths to their communities in a positive frame of mind. If grievances are not handled properly, they have an adverse effect on the system of discipline, mainly by increasing disciplinary problems.

II. A SOUND PHILOSOPHY ON DISCIPLINE AND GRIEVANCE PROCEDURES

A. Discipline

Discipline is an essential--probably the most important--component of treatment at any detention or correctional facility. The scope and application of disciplinary measures are difficult to address; but to be effective and avoid abuse, specific, clear, realistic rules and regulations, accompanied by uniform policies and procedures must be established.

The policies and procedures established should preclude measures and methods that are arbitrary, and unnecessarily harsh or unequal; they should instead foster fairness, equality, consistency, and the opportunity for juveniles accused of misconduct to participate in their own defense. Disciplinary measures administered to juveniles must be appropriate to the infraction. The consequences should be logical.

These procedures should allow those charged with the care of juveniles in the living and activity areas to regulate the behavior of youngsters in their care, with encouragement given to residents for the development of self-discipline and social growth.

All types of corporal punishments, including striking, or forcing to stand or kneel, should be specifically prohibited. Excessive use of force is neither conducive to security control, nor does it foster behavioral improvements.

Psychological punishments should also be prohibited. The behavior of youths correlates highly with the degree to which adults in their environment serve as positive role models. Harrassment, belittling, badgering, swearing at residents, making derogatory remarks, and "head games" setting youngsters up to fail, are seen by residents as staff's failure to be honest or fair with them. No system of discipline will be any better than the degree to which staff earn, not demand respect.

Staff should never make promises to youths which they cannot keep. Similarly, staff should refrain from continually threatening youngsters, a pattern of interaction which many youths encountered at home.

Least Restrictive Alternatives First

Discipline should be carried out on the principle of using the least restrictive alternatives first. Juvenile facilities which have followed this approach testify to its effectiveness. What is its rationale?

1. If the most restrictive alternatives are used first, what sanctions are left?

   If a reprimand, "counsel and dismiss" works, why start with one day (or even one hour) in secure confinement and embitter the youth who may have a common sense outlook on what is a logical consequence?

2. Many people learn by negative experiences and need the process repeated many times. With a range of sanctions, the changes are greater that the youth will develop inner controls; "hitting hard" with the severest first is more likely to result in the youth "digging in." When this happens, external controls will be repeated, but their effect will not be assimilated or internalized.

3. Various court decisions, based on expert witness testimony, have mandated implementation of the least restrictive alternatives first in the overall juvenile justice field.

It has been demonstrated that counseling works best for initial sanctions, and that when "cooling off" or room isolation is necessary, short periods, e.g., ten minutes, are more effective to start with than long ones.

Some Dramatic Comparisons of Approaches

Surveys of various training schools nationally have revealed the implementation of some drastically different approaches to disciplinary practices, with vastly different results.

1. One training school had more youths confined to own-rooms in one day than a neighboring state's training school confined in one year. Yet the latter operated more effectively, from the standpoint of both staff and youth morale, with fewer hassles between staff and youths, fewer fights between students, and above all, no lawsuits (which the former had).

2. One state training school held residents in secure cottage confinement for an average of 16 days, compared to a similar facility in a comparable state which held them less than one day. The latter facility ran a "cooler" institution and had fewer operational, program, and disciplinary problems.

3. One state juvenile institution kept its residents in own-room isolation for over a day, compared to a similar facility in another state which followed the American Correctional Association standard, limiting confinement to a maximum of one hour. Again, the latter institution operated a better program with fewer staff-student and student-student problems.

   One large juvenile justice system limits its room isolation time to 30 minutes, exceeding recognized standards.

   One detention facility, accredited under American Correctional Association standards, has not kept a youth in room isolation in over two years, while most detention centers use room isolation on an almost daily basis. Strong administration, creative programming, and well-trained staff make the difference.

B. Grievance Procedures

It is commonly accepted that effective grievance procedures must be perceived as fair by both residents and staff.

Further, grievance procedures must be used and actually solve problems, including those which require the review, clarification, and change of policies. A system which deals only with complaints arising from the application of policies, but not their substance, can be expected to be dismissed by residents as "tokenism."[2]

Without meaningful involvement of staff and residents, grievance systems are not effective.

To make a grievance mechanism effective, the top administrator must convey that s/he sees it as important to monitoring the daily operations of the system, institution, or program.

III. RESTRICTION AND ITS EFFECTS

Is secure confinement or restriction a good means of treatment? It depends upon how it is implemented. Generally, it should be used only after other, less restrictive alternatives have been tried and failed. Initially, counseling appears to be the best alternative in the great majority of rules violations.

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[2]The Center for Community Justice 2-3.

Youths who learn from negative consequences require a progression of logical consequences before "seeing the light." With secure confinement, "short doses" should be administered first, and after a few short periods of confinement, the youth is more likely to assimilate the effects. But if the first confinement is long, and the youth gets discouraged and embittered, more crises may result. Lengthy time-outs precipitate even longer ones because staff feel previous periods were insufficient.[3]

All restriction orders should be signed by the facility administrator or a designee. Further, the administrator or designee should assume responsibility for monitoring restriction trends, which can be picked up from daily statistical reporting. Patterns of restriction abuses, based upon performance by individual staff and living units can thus be detected, and entrenchment of poor restriction practices curtailed.

All confinements should be carried out with meaningful counseling, with the goal of removing the youth at the earliest possible time, when attitudes change. Counseling should be no less frequent than every 15 minutes. Some facilities require staff to accompany the youth to isolation for counseling on a continuing basis.

IV. THE BASICS OF GOOD DISCIPLINE

A. Introduction

What is discipline? For different people in the field of corrections, it has varying meanings.

Unfortunately, discipline for many primarily has meant imposing controls upon subjects of the system by giving orders and demanding obedience.

The best definition, perhaps, is from a standard dictionary: "Training that is expected to produce a specified character or pattern of behavior, especially that which is expected to produce moral or mental improvement." Second, "Controlled behavior resulting from such training." Third, "A systematic method to obtain obedience."

These definitions, from the American Heritage Dictionary, stress that discipline is effected through training and a systematic approach, essential factors in developing a sound system of discipline in a correctional

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[3]Vincent J. Carbone, "The Effectiveness of Short Duration Time-Outs in a Juvenile Detention Facility," Juvenile and Family Court Journal 34. 1 (1983): 75-82.

institution. Exterior controls imposed by group living or child care workers, each of whom operates as an individual without direction, will not provide an effective disciplinary system.

If training, therefore, is the foundation of superior disciplinary systems, where does training start? What are the essential ingredients? How is it best implemented?

B. Where Does Good Training (For Good Discipline) Start?

Training for good discipline starts with the superintendent. Of first importance is, "Does the superintendent have a sound understanding of discipline?"

If the superintendent has a sound outlook, and methods to implement a good system, the next most important factor is staff supervision. Many trainers feel that over three-quarters of one's learning comes from the supervisory process, not the classroom.

It is essential, therefore, that the supervisors are "in tune" with their administrator, and know how to impart to their staff the principles that have learned from their supervisor--the administrator.

Nothing in an institution, including training, will be any better than the degree to which the administrator and his/her supervisors are capable of delivering as a team. TEAM means team efforts accomplish much.

Staff will be only as good as their supervisors, who in turn, will be only as good as their administrator. Thus, staff and the system are heirs of the "trickle-down" process, whether for good or for bad!

C. Components of Professionalization

The various components of professionalization of child care workers may now be reviewed. While skills training has been given the major emphasis in many juvenile justice systems, there are other, more important factors. These include:

1. Self-understanding; this includes introspection;
2. Knowledge about the field, or systems knowledge; this is known as "skills training";
3. Capable administration; and
4. Informing and involving the public.

Self-Understanding

Understanding of self is considered the most important factor in the professionalization of child care workers (CCW's).

Self-understanding helps workers to:

1. Learn more quickly;

2. Do a better job; and

3. Become happier and healthier because of a lower stress level.

How do you help the CCW address this area of self-understanding?

First, CCW's must be "Put on the MAP." MAP is an acronym. "M" stands for motivation, "A" for attitudes, "P" for philosophy.

To be recognized as professionals, CCW's must have the proper motivation, positive attitudes, and a sound philosophy.

Without these essential qualities, staff cannot be good role models and establish good relationships with troubled youths.

Proper Motivation

Motivation refers to the causes of human behavior. Why do you act as you do?

Workers should ask themselves, "Why did I come into this field? Was it merely because I needed a job and this one was available?"

Did you seek this job because you like working with youths and want to help them? Or, are you a CCW mainly for self-satisfaction? All of us need self-satisfaction, but this can't be the main goal. Rather, it should be an end-product.

Perhaps you didn't have a good life, now have problems and somehow want to make up for it, and satisfy your own needs? Are you reliving your life through the youths whom you supervise?

Are you over-permissive because you were reared very strictly, or just the opposite? Are you overly strict because that's the way you were brought up? Or, because you were overindulged and don't want that to happen to anyone else?

Too many people come into the child care field with more problems than the youngsters. However, awareness of a problem, brought about through discussions in a safe environment, often can be 51 percent of its resolution.

And the end results? Both workers who are either overly strict or overly permissive can still "end up in the middle"--firm, consistent, and fair. This in turn produces "cooler" institutions with fewer hassles, a more productive, less stressful staff, and most important, better care for youngsters.

Do you try to do something about changing negative parts of your work life? Do you make suggestions for system improvements to your superiors? Do you help fellow workers perform better by giving helpful suggestions? Or, do you lack motivation and allow the status quo to prevail?

A simple test for good motivation is:

1. Do you look forward to coming to work--to being of service?

2. Do you help other CCW's do their jobs better?

3. Do youths and fellow workers see you as a positive person?

4. Or, are you a drain on the system?

5. If a vote were taken among your fellow workers as to whom they would select to assist them in a life-threatening emergency, would your name be on the list?

6. If youths in your charge were to rate your overall performance, what kind of rating would they give you?

If, with training and other help such as from your supervisor you are not a positive influence on youths and the system in which you work, consideration of a job change is in order.

Positive Attitudes

Are your attitudes positive, negative, or a combination of both?

One dictionary defines "positive" as, "Confident. Real. Moving in a direction of progress or forward motion. Determined. Characterized by the presence of good qualities."

These qualities define a good adult role model, absolutely essential for problem-oriented youths.

Are you objective? Do you treat others fairly, as you would want to be treated? Some say that the Golden Rule is the only standard needed in child care.

Do you feel good about yourself? What is your self-respect level? One of the most important personnel rules is, "Hire the person who feels good about him/herself."

Do you dislike, or perhaps even hate, some youths because of the crimes they have committed? Or, do you hate the crime but not the youth, which is an acceptable attitude?

The most negative attitude in child care workers is the "authority problem." Do you get unusual satisfaction from having power over people? Do you look forward to coming to work because you were "bossed around" as a youngster and feel that's the way training school youngsters learn best? This is no different than the "badge happy" policeman about whom we have heard so much.

Do you feel that respect from youngsters must be earned or demanded? Do you bark orders? Make stern demands?

Or, do you ask questions which convey to the youngster that you have respect for him? That when someone is asked to do something, compliance is more likely?

Studies of group homes have shown that the authoritarian, order-giving group home parent has more runaways than those who set examples, have a good relationship with youngsters, ask and encourage, and are supportive.

Surveys of training schools, where cottages have low runaway rates and fewer hassles, also show that the group living staff there set good examples.

Are you responsive to change? Are you adaptable? In an ever-changing society, with an ever-changing youthful offender, as well as an ever-changing juvenile justice system, the CCW who can't change when common sense dictates, "burns out" and is easily frustrated.

Flexibility is important in the life of the CCW. Do you really feel that "all people make mistakes"? Or, are you one of those "toe-the-mark-or-else" people?

Flexibility does not mean being inconsistent. Being consistent is following the same principles in taking action. This means looking at all factors and making a decision, or taking action on that basis. It means using your judgement. Since individuals and situations vary, judgements differ.

The CCW who says, "I go by the book. I never deviate," denies the existence of good judgement, particularly his own. Higher salaries will be hard to

obtain if no thinking or judgement is involved in the job. "Treat everyone alike" sounds good, but defies the reality of life.

Show consistency in your approach to a course of action, and flexibility in carrying it out. In short, be adaptable, not rigid or unbendable.

If negative feelings toward self are not too deeply ingrained, awareness training can at least neutralize these feelings, placing the worker on the positive side of influencing residents.

Where do you stand? How do you operate?

A Sound Philosophy

Corrections has been plagued with problems of philosophy, influenced in great part by a general public with a mainly punitive outlook. There are some exceptions, one cultural, in a few states or regions where ethnic backgrounds and attitudes stemming from ancestry or country or origin promote a positive philosophy.

A second exception comprises correctional administrators who work completely openly. These progressive officials work with the public pro-actively instead of reactively, not in a vacuum or behind closed doors.

Working with the public implies working with key community groups, having citizen advisory groups, and working closely with the media on public information and education. These few administrators influence and shape public policy rather than merely following. In these more progressive systems, line staff play a key role in helping change public attitudes by giving talks and assisting with institutional tours.

Child care workers cannot be blamed for lacking a sound philosophy for the care of youths in trouble with the law. Responsibility must rest with administrators and supervisors.

Is your philosophy and that of the facility, "Lock 'em up and throw away the key," or, "Let them do what they want," or "Be firm but fair"?

Although the "sympathy/give them another chance" approach on the one hand, and the get tough approach on the other will work for some youths, what about the other 85 or 90 percent?

It has been said that the best philosophy in juvenile justice is "halfway between the tear gas and the tear ducts"! In short, be firm but fair.

Most experts feel that positive relationships between staff and residents, engendered by positive adult role models, constitute the single most important

factor in effective, good discipline. What is the status of your relationship with youths?

Where institutions also apply guided group interaction/positive peer culture treatment models, discipline will be even more effective because positive peer influence is stronger and more prevalent than one-to-one counseling.

Good relationships between adult role models and troubled youths demand a philosophy of nonrejection, being nonjudgemental, and treating residents on an eyeball level, not condescendingly.

Thus, with good relationships, youths develop inner controls, and we don't have to "stand over them" to see that they behave. Also, upon release, they more likely will stay in the community.

"I'm better than you" sets up a "we" and "they" setting, wherein one team, one camp, cannot prevail.

Mutual respect must undergird the whole system. Their being "the offender" means only that you dislike or hate what they did, but not hate them as persons. This is difficult psychologically for some workers to adjust to, and if not resolved, can impede their working effectively with delinquents.

D. Systems Knowledge--Skills Training

Child care workers with the right motivation, positive attitudes, and a sound philosophy almost automatically do the right thing in working with youngsters. Skills training on how to handle children frequently is unnecessary for the "naturals." Unfortunately, however, not many of us are "naturals." Training will help us become second-best naturals.

Basic guidelines on good child care have already been covered. However, some practical discussions of common problem areas may be helpful.

The Do's and Don't's of Good Child Care

There are institutions in which group living and child care staff go home at the end of their shifts feeling good about what they did. Based on hundreds of individual and group interviews over the years with youngsters and staff, following are the major characteristics of good child care workers:

1. They were fair. (This is the most frequently mentioned assessment. Even during times of racial strife on the streets of our nation, youths in juvenile facilities responding to survey questions, placed fairness of staff above ethnic background.)

2. They do not play favorites.

3. They treat you like human beings; they don't treat you like animals.

4. They always kept their promises; they were honest. (Children in trouble have had one broken promise after another in their lives, and one more broken promise means greater distrust of adults.)

5. They were not power hungry; they didn't get unusual satisfaction from having power over people.

6. They do not play "mind games" or "head games." (Staff do not test or tantalize them.)

7. They weren't afraid to admit their mistakes. (When we admit our mistakes, instead of lowering ourselves, we grow in the eyes of youths.)

8. They seemed to care, or they showed real interest in us. (If you're in the field only because "it's a job," youngsters will see through you.)

9. They don't "put you down." (Workers did not make derogatory remarks or belittle them. They were not sarcastic. "Putting down" by staff produces hostility and resentment, leading to youth misbehavior.)

10. They didn't wash dirty linen in public. (Family and job problems were not loaded onto youngsters and other staff.)

11. They didn't criticize other staff in the presence of youths. (Private discussions to resolve staff differences is the professional way.)

12. They answered questions. (Instead of answers such as, "Why are you asking?" or "You're not supposed to know," questions should be answered directly. If the answer is not known, the youth should be told and given the answer as soon as possible.)

13. They were consistent. You always knew what to expect. (Delinquent youths learned at home to manipulate inconsistent parents. CCW's who do not follow established agency procedure, but act on their own, leave themselves open to manipulation. More importantly, your fellow CCW whose shift follows yours will be put on the spot for not operating--even though incorrectly--as you do.)

14. They didn't look down their noses at you. (They were not condescending.)

15. They didn't yell or swear at you.

16. They didn't come to work all bent out of shape. (This meant not only physically, such as from a hangover, but also psychologically, e.g., not venting their feelings on youngsters or other staff because of problems at home. However, discussing positive family incidents with residents can be beneficial, especially in orienting asocial youths to the better side of life.

17. They used reasoning instead of "laying down the law." (Being firm is one thing, but being authoritarian, like the badge-happy policeman, is negative.)

18. They asked us once in awhile to do something, instead of always ordering us.

19. We looked up to them. (They were good role models who set good examples.)

20. They talked with us. (Interfacing with troubled youths on an eyeball-to-eyeball basis, not "down the nose," is essential for youths to obtain a positive image of adults. Getting out of those offices and away from those desks, and interacting with the students, are necessary for the development of a positive climate in any group living setting.)

21. They don't threaten you all the time. ("Crying wolf" lets students know that your threats are ineffective. Some youngsters accept such threats as a challenge and end up testing you.)

22. They didn't preach to us. (Staff were not judgemental. Strong moral and religious arguments frequently have a reverse effect. Good role modeling is considered much more effective.)

23. They had a sense of humor. They smiled once in awhile.

24. They were team workers. They didn't put themselves first.

25. They were self-confident people who didn't expect us to love them. They believed in themselves, and we respected them. That's what counts.

26. They never got physical. They didn't have to because they used their heads.

27. They did more than what was expected of them.

28. They explained things. (This pertained primarily to reasons for disciplinary actions.)

29. They had open minds. They were willing to listen.

30. They knew how to accept criticism.

31. They were patient.

32. They were sincere and honest.

33. They had faith in the ability of youths to change for the better.

34. They don't jump on you for every little thing. (Some CCW's expect youths always to act like adults. "Horseplay" rules have been abolished in nearly all training schools.)

35. They didn't give up right away. (Because few of us learn from one mistake, counseling frequently works best with youths regarding rules violations, not a quick rejection after the first mistake.)

E. Key Guidelines for Good Disciplinary Practices

1. Good adult role modeling and positive relationships with youths are the most important factors in good disciplinary practices.

2. Counseling often works best. Following the principle of the least restrictive alternative first has proven most effective.

3. A detention or correctional program which is rich in privileges is in a better position to use a range of sanctions to influence behavior.

4. Privilege losses for rules violations should never include regular meals, clothing, sleep, health care, school, exercise, correspondence privileges, or contact with parents or legal assistance.

5. For "cooling off," standards allow up to 60 minutes for own-room isolation, but it is strongly recommended that initial time-out intervals be only 10 minutes. All time-outs should be accompanied by frequent contacts on a counseling basis to determine readiness for release.

6. Explanations by staff concerning disciplinary actions must be clear and carried out without vindictiveness.

7. "Don't take anything personally" is a good maxim to follow. As one administrator has said, "We must be good 'hostility sponges' to work in this field."

8. The "bottom line" in all disciplinary handling is to treat others as you would want to be treated.

9. Juvenile facilities which use positive peer culture/reality-based group counseling find that most rules violations can be effectively handled by the group rather than directly by staff, because peer influence is frequently stronger than parental and parent-substitute influence. In this modality, staff refer violations to the group for handling.

F. Summary of What Constitutes a Sound System of Child Care

1. The philosophy of staff must be that youths can change for the better.

2. Lasting change cannot really be imposed from the outside except temporarily; it must come from within the youth.

3. Positive relationships with other people, primarily good staff and positive peers, most often motivate youths to change.

4. It is the duty of the juvenile facility to provide an environment which encourages the development of positive relationships. It must be what youths consider a "safe environment."

5. Any good juvenile system must strive to teach values of integrity, personal accountability, and respect for the rights of others; primarily through good staff role modeling, this can be accomplished.

V. SOUND AND REASONABLE RULES AND REGULATIONS FOR RESIDENTS

A. Introduction

For the residents of juvenile facilities, there are two types of rules--minor and major. Minor rules are important because they provide the foundation for orderly, peaceful living. They insure that everyone is treated fairly and courteously, and that the stay of all juveniles is as beneficial as possible.

Major rules are those established to protect the health and safety of juveniles, staff members, visitors and others at the institution. Violations of major rules are very serious because they may endanger health and safety. Major rule violations should result in firm but fair disciplinary measures.

All staff members of the facility are responsible for ensuring that residents under their immediate supervision or care reasonably abide by these regulations. When transgressions are observed, but corrective action is not taken

(staff "turn the other way"), the staff member is, in effect, approving the wrongful conduct.

NOTE: Institutions which use the Positive Peer Culture treatment modality do not use rules and regulations as such, but employ instead "expectations" which change from time to time, depending upon the helping/caring level or culture of the group.

B. Minor Rules

Violations of minor rules may result in restrictions, extra work duties, withholding of privileges, and the loss of points toward an advancement in cottage level.

The minor rules are:

1. Residents must keep living areas clean and orderly. Beds must be neatly made each day, and all articles of clothing and personal property kept in lockers or other designated places.

2. Every resident shall keep his/her clothing and person neat and clean. Residents shall not willfully damage any article of clothing or other personal property issued to them.

3. Residents must not intentionally abuse or waste supplies.

4. Excessive noise or boisterousness shall not be permitted at any time in the cottages, classrooms, and elsewhere. After lights are out at night, talking is not permitted.

5. The use of profane, vulgar or obscene language, or gestures is prohibited.

6. All requests, directions, orders and assignments by staff members must be promptly obeyed.

7. Tampering with or picking locks is prohibited. Under some circumstances this may be a major rule violation.

8. Residents are prohibited from making suggestive, seductive, or offensive remarks.

9. Unauthorized movement or being in an unauthorized area is prohibited.

10. All residents must abide by the smoking policy for their cottage/living unit. Smoking on the grounds and streets is prohibited.

11. Permission of a staff member must be obtained before a telephone is used.

12. The following items are contraband and must not be in a resident's possession. In some circumstances, possession may be considered a violation of a major rule:

    a. Gasoline, lighter fluid or other liquid fuels.

    b. Drugs and medications, except when specifically prescribed by the doctor or nurse.

    c. Money in excess of the amount allowed by cottage policy.

    d. Pornographic pictures or literature.

    e. Penknives, fingernail clippers.

    f. Propelled aerosol sprays.

    g. Unapproved model cement or glue.

    h. Glass containers and items made of glass, unless specifically and expressly excepted by proper authority.

    i. Razor blades (except where approved for shaving).

    j. Nail polish and nail polish remover.

    k. Drug symbols, drug paraphenalia and clothing, jewelry or other items advocating the use of drugs. All such items will be confiscated.

    l. All questionable items should be referred to your counselor.

13. Residents on work or study release are required to use public transportation or walk. Hitchhiking is specifically prohibited.

C. Major Rules

Violations of major rules may result in charges being filed in court; a reduction in program level; loss of privileges for a prescribed period of time, including furloughs, social and recreational activities; restriction to a prescribed area for a prescribed period of time; secure confinement; forfeiture of all or portion of allowances or any lesser consequence.

The major rules are that students shall not:

1. Hit, strike, wound or assault any other person, either with or without a weapon.

2. Plot, make preparations for, or attempt to escape. Anyone who escapes, runs away or fails to return from an authorized absence and anyone who assists another to escape, run away or fail to return from an authorized absence violates the law and the rules of the facility.

3. Possess any form of weapon or any item of potentially dangerous usage in any circumstance. Possession includes on the person or in the clothing of a student in the room assigned to the student, or in such other places where there are reasonable grounds to believe that the student has custody and control thereof.

4. Engage in any kind of sexual activity with anyone at the facility.

5. Intentionally destroy or mutilate any government, student or private property, tools or equipment.

6. Riot, or incite to riot--defined as an overt act tending to disrupt the order and safety of the institution.

7. Be intoxicated, drink intoxicating beverages at the facility, make or attempt to make an intoxicating beverage or use or possess any controlled drug or chemical, unless its use is specifically prescribed by competent medical authority. Students shall not possess or use marijuana, glue or other mind-altering substance.

8. Steal from any other person or from the facility or any of its components.

D. Orientation of New Residents/Students Concerning Rules and Regulations

Every residents should be given a copy of the rules and regulations upon admission. The rules should be explained as necessary to insure complete understanding by the resident. In the event the resident cannot read, a member of the staff should read the rules to the student on intake, and review the rules with the resident not less than every 60 days.

The resident should sign his/her name of the back page of the booklet with the date noted. A statement, "This verifies that the Rules and Regulations have been read to me," should be affixed to the back page preceding the signature. The rules booklet should be kep in the resident's case file.

Residents who can read and are given a set of the Rules and Regulations should sign a dated log sheet, signifying that the resident did receive the document and orientation. The log sheet shall also contain the name of the staff person who oriented the resident.[4]

E. Training of Staff

Personnel who work with residents/students should receive continuous in-service training in the rules of juvenile conduct, sanctions available, and the rationale for the rules.[5]

VI. RECOGNIZED PROCEDURES FOR THE HANDLING OF DISCIPLINE

While the following procedures are presented as samples, which may vary from system to system, their underlying principles should be basic to any system.

A. Procedures for Processing Minor Rules Violations

1. Sanctions. A minor rules violation is one for which the sanctions authorized are limited to restriction, extra duties, withholding of privileges, or the loss of points affecting the maintaining or advancing in the living unit, the latter for a period not to exceed five days. Other limitations on these sanctions are outlined below.

2. Filing of Report. When a staff member has reasonable belief that a minor violation has been committed by a resident in his/her charge or observation, that staff member may file a written report with the unit leader or assistant before his tour of duty is finished (Figure 1). The report shall include:

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[4]National Advisory Committee on Criminal Justice Standards and Goals, Juvenile Justice and Delinquency Prevention, Report of the Task Force on Juvenile Justice and Delinquency Prevention, (Washington: National Advisory Committee on Criminal Justice Standards and Goals, 1973). Parts of this section are based on these standards and disciplinary regulations developed by the New Hampshire Division for Children and Youth Services.

[5]American Correctional Association, in cooperation with the Commission on Accreditation for Corrections (College Park: American Correctional Association, 1983). Standards 2-9291 and 2-8312. Standards for Juvenile Training Schools and Standards for Juvenile Training Schools and Standards for Juvenile Detention Facilities, 2nd ed.

a. The specific rule(s) violated.

b. A description of the facts surrounding the incident.

c. The names of witnesses to the incident.

d. A listing of evidence and the disposition made of that evidence.

e. A description of immediate action taken, including physical force, if any.

f. The date, time and place of the violation.

g. The signature of the staff person making the report.

h. The signature of the resident to acknowledge that a report has been made. If the resident cannot or will not sign, this should be noted.

3. Alternative/Informal Handling. Whenever a staff member believes that an offense may be responded to properly by a reprimand, warning, or counseling, s/he may so respond, in which event a disciplinary report need not be filed. When a staff member believes that an offense may be responded to properly by a restriction, extra duty, or withholding of a privilege for a period of time not to exceed 24 hours, s/he will so respond and will cause an entry to be made in the official log of events.

However, own-room isolation shall be limited to a maximum of 60 minutes, with staff counseling contacts at least every 15 minutes.[6] As noted, 10-minute intervals are preferred to longer periods.

Confinement in a security room can be effected by staff on an emergency basis for a maximum of one hour, provided the staff person accompanies the youth for the purpose of counseling. This approach has proven very effective in systems which use it.

Use of either of the above two restrictions requires filing a rule violation report and an entry into the central confinement log, containing all essential information: name, housing location, date and time admitted, reason for confinement, date and time of release,[7] any special counseling provided and any unusual behavior displayed.

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[6] American Correctional Association, Standards for Juvenile Training Schools, Standards 2-9293 and 2-9295.

[7] American Correctional Association, Standards for Juvenile Training Schools, Standard 2-9313.

Reports of rule violations and actions taken will be presented to the unit leader for review in all types of sanctions.

4. Handling of More Serious Minor Violations. When the circumstances of the incident are deemed more serious and call for a response or consequence lasting more than 24 hours, a rule violation report will be completed. An investigation of the incident by a supervisory staff person will begin within 24 hours.

The living unit leader (or in his/her absence or direct involvement in the incident, the assistant) will review the rule violation report and conduct a hearing which meets the following minimum conditions:

a. The accused resident shall be present at all phases of the hearing, unless that presence is precluded for reasons of institutional security or the safety of a witness.

   Whenever the accused resident is not allowed to be present, a written statement as to the reason for his/her exclusion will be made a part of the record.

b. The resident shall be allowed to make a statement in his/her own behalf and shall be allowed to present reasonable evidence, including written statements of others, in his/her behalf. When necessary, the staff member involved in the incident will be interviewed.

c. The person conducting the hearing may allow any evidence of assistance in reaching a decision. Unless the person conducting the hearing believes that additional oral testimony is required, a decision may be based upon the disciplinary report and supporting statements, the written or oral statements of the resident, and any other relevant written or physical evidence presented. In any event, the hearing officer will ensure that the resident is aware of all evidence used against him/her, and is given the opportunity to refute it.

d. The person conducting the hearing shall state in writing the findings, the evidence relied on, and the sanctions imposed, if any. The record will be reviewed by the designated treatment coordinator who will sign the report in the appropriate space indicating the review has been completed. Upon completion of the review, a copy of the record will be provided to the resident, and a copy will be placed in his/her central record file (see Figure 2).

e. When the resident is given a copy of the record, s/he shall be informed that an appeal of the action may be made to the director of treatment. The resident must notify the cottage staff of an intention to appeal, and must provide a written statement setting forth

the grounds for appeal (Figure 3) within 24 hours of receiving the report. The living unit leader will ensure that, where applicable, oral statements given by a youth are written verbatim by a staff member. The failure to comply with either of the above conditions will constitute grounds for dismissal of the appeal. The hearing officer at his/her own discretion may grant a stay of any sanction imposed at the disciplinary hearing during the time the matter is pending appeal.

f. The director of treatment may affirm the decision of the hearing outright; may reverse the decision or send it back to the hearing officer for reconsideration or further proceedings; or reduce but not increase the sanctions imposed. All appeals will be acted upon and a decision rendered in writing within 72 hours of receipt of the appeal. A copy of the decision shall go to the resident and a copy will be placed in the resident's central record file (see Figure 4).

In summary, limitations on sanctions for minor rules violations should be:

-- Confinement in own rooms will be limited to a maximum of one hour.

-- Confinement in a security room will be limited to a maximum of one hour.

-- All other sanctions/losses of privileges are limited to three days.

-- Own-room confinement requires counseling contacts at least every 15 minutes.

-- Placement in a secure room should involve constant counseling by a staff person who accompanies the youth in the secure room, preferably the same staff person who placed the youth in confinement.

NOTE: Institutions which use the Positive Peer Culture treatment modality generally handled the preponderance of minor rules violations through the group peer culture process, rather than by the procedures outline above.

B. Procedures for Major Rules Violations

1. Sanctions. A major rules violation is one for which the sanctions may include:

a. A reduction in program level.

b. The loss of privileges, including furloughs, social events, and recreational activities for a prescribed period of time, not to exceed five days.

c. Confinement up to 24 hours, with 24-hour reviews by the administrator or designee for extensions beyond that time.

d. Confinement in secure quarters/discipline unit for a maximum of five days, unless otherwise provided by law.

e. Forfeiture of all or a portion of the resident's allowance up to 10 days.

f. Any lesser consequence.

Restriction to secure quarters should be used only after all reasonable alternatives have been considered.

When confinement is used, all admissions should be recorded in a permanent log, including name, housing location, date and time admitted, reason for admission, release date and time, and special medical or psychiatric problems or needs. All unusual behavior should also be recorded.[8]

The 24-hour review requirement during confinement, as outlined above, extends to weekends and holidays when the duty officer may be designated to conduct the review.

Confined residents should be visually checked at least every 15 minutes on a short-term counseling basis, and visited by a staff person for extensive counseling purposes at least once each day. Youths on suicide watch are visually monitored on a constant basis, with counseling conducted or attempted at no less than 15-minute intervals until the watch is terminated.

At the discretion of the administrator or his designee, serious violations of major rules may be referred to the police for investigation and filing of charges.

2. Filing of Report on Violation(s) Investigation. When a staff member has reasonable belief that a major violation has been committed by a resident in his/her charge or observation, that staff member shall file a written report of the incident with the living unit leader of the unit to which the resident is assigned. The report (Figure 1) shall include but not be limited to those items outlined under Section VIII. A. 2 for minor rules violations.

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[8]American Correctional Association, Standards for Juvenile Training Schools, Standard 2-9313.

An investigation of the alleged rule violation will begin as soon as possible and within 24 hours after the incident is reported.

3. Disposition Process. Upon the reporting of a major offense, the following action must be taken:

a. Notice of Violation

The resident will be given a copy of the report within 24 hours. The resident will be informed that s/he is entitled to the assistance of an advocate, including a staff person or other resident, and that, unless waived by the resident, a minimum of 24 hours will be allowed to prepare for the hearing. Special effort must be made to ensure that the resident understands the nature of the charges and the rights s/he has in the disciplinary process.

b. Conditions If Confined

Prior to the hearing, the resident is entitled to remain in his/her present status unless security or safety measures require that a change be made. If movement to a more secure setting is deemed necessary prior to the hearing, it may be ordered by the senior living unit person on duty. Such an order shall be reviewed by the administrator or assistant administrator or their designee within 24 hours. Failure to conduct such a review and obtain approval of the decision to invoke a higher degree of security will result in the resident being returned to his/her original status. Time spent in a more secure setting prior to the hearing will be credited against any subsequent sanction imposed.

Youths placed in confinement should be afforded living conditions and privileges approximating that of the general juvenile population.[9]

c. Hearings

Hearings will be conducted for all reported major offenses unless investigation results shown that the charges are baseless. All hearings will be conducted by a panel, committee, or board of impartial staff members.

There is no single model for hearing panel, committee or board makeup. If it is sole person, s/he should be of sufficient administrative status to ensure knowledgeable consideration of all pertinent

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[9]American Correctional Association, Standards for Juvenile Training Schools, Standard 2-9301.

data and objectivity in decision-making.[10] Frequently, the hearing board will be joined by the living unit leader or his/her designee, and a child care worker from a cottage not involved in the incident.

Any member of the staff shall be disqualified from sitting as a member of a hearing board or committee in any hearing in which s/he witnessed the incident in question, or is in some way prejudiced against the resident who is the subject of the hearing. All hearings will be conducted in a fair and impartial manner and will meet the following conditions:

1) The resident shall have the opportunity to be present during all phases of the hearing except when behavior during the hearing justifies exclusion or rights or waived. A full explanation of the reasons for the exclusion will be made a part of the record for the hearing.

2) The resident may consult with counsel or counsel substitute, who may be a member of the staff, or another resident prior to the hearing or at any time during the hearing. The extent to which the counsel substitute may present a resident's case at a disciplinary hearing shall be determined by the chairperson of the board hearing the case. In arriving at that decision, the board will take into consideration such factors as reading ability and intelligence of the resident, the complexity of the case, and any other factors which may hamper the resident's ability to make a complete presentation in his/her own behalf.

3) The resident and/or his/her counsel or counsel substitute shall be given a copy of all written information provided to the disciplinary hearing board except information that may, in the opinion of the members of the board, be unduly hazardous to institutional safety or security. Reasons for nondisclosure shall be stated in writing and made a part of the record of the hearing.

4) The resident shall be provided the opportunity to make a statement orally or in writing; to call relevant witnesses; and to present documentary and/or physical evidence in his/her own behalf. Reasons for denying the appearance of any witness shall be given in writing and made a part of the record.

5) The resident shall have the opportunity to confront and cross-examine his/her accuser and all adverse witnesses, unless doing so would be unduly hazardous to institutional safety or security,

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[10] American Correctional Association, Standards for Juvenile Training Schools, Standards 2-9305 and 2-8327.

or would endanger the physical safety of the witness. Reasons for denying the opportunity to cross-examine an adverse witness shall be given in writing and will be made a part of the record.

6) At any time during the hearing, the hearing board, on its own motion or at the request of the resident, may request further investigation of the matter and continue the hearing to a future time.

7) An individual may be found guilty of a major offense on the basis of information from a source not disclosed to the resident at the hearing, provided that the details of information from an anonymous source are shared with the resident insofar as possible, without creating an unacceptable risk of danger to the source.

In all cases where the board considers information from an anonymous source, the name of the source and all details of the information shall be given to the board out of the presence of the resident. In any such instance, a confidential record of the information, the identity of the informant, and an evaluation of the informant's reliability shall be kept. This record shall be available to the administrator of the facility, the assistant administrator, and the director of the parent agency or his specific designee.

The disciplinary hearing board is hereby empowered to stay or suspend the imposition of any sanction, pending a completion of the written record of a decision by the board (Figure 2) and any appeal.

d. Appeals

Decision of the disciplinary hearing record may be appealed by the resident who shall be provided with an appeal form (Figure 3) at the conclusion of any hearing which results in a finding of guilt. Appeals to the administrator must be in writing, and received within 24 hours of the resident's receipt of the written record of the hearing which is being appealed.

All appeals shall be considered and a decision rendered by the administrator or assistant administrator within 72 hours of receipt of an appeal. The decision on an appeal may be to affirm or reverse the findings of the board; to remand the decision of the board for a rehearing or further consideration; or to reduce, but not increase, any sanction awarded by the board. The results of an appeal decision will be provided to resident in writing (Figure 4).

The living unit leader shall ensure that the results of the disciplinary hearing are read to the resident, and where applicable, oral

statements given by a youth in filing for an appeal will be written verbatim by a staff member.

The administrator may review any disciplinary action regardless of whether an appeal is taken, and may reverse the decision, reverse and remand the decision, or reduce the sanction imposed by the board whenever s/he feels such action is warranted.

e. Expunging Record

If a resident is found not guilty of an infraction, all reference to that offense and/or the circumstances surrounding it shall be removed from the resident's file if reasonably possible. If reference to the offense is incorporated in other documents and cannot be reasonably expunged, the file shall clearly indicate that the resident was found not guilty of the rule violation charged or alleged.

C. Procedures Following Criminal Misconduct

1. When it has been determined by the administrator, assistant administrator, or weekend duty officer that there is cause to believe that a resident has committed a criminal offense, the police department may be notified.

2. Disciplinary proceedings shall move forward as in the case of a major offense. The resident shall be advised that s/he has the right to remain silent during the hearing and that nothing s/he says during the course of the disciplinary hearing may be used against him/her in any subsequent court action.

D. Procedures Following an Emergency or a Disruption

1. In any widespread disruption or other emergency declared by the administrator or high authority, any or all portions of this regulation may be temporarily suspended.

2. Any resident involved in a disruption or other emergency may be detained without a hearing as long as the disruption or other emergency exists.

3. Upon the return to order, any resident who was detained shall be accorded all disciplinary procedures and protection of rights provided by this regulation.

E. Limitations on Effecting Disciplinary Sanctions

Youths confined in a security room will be provided living conditions and privileges similar to those available to the general juvenile population. Privilege suspension will not include loss of regular meals, clothing, sleep, health care, school, exercise, correspondence privileges, contact with parents or legal assistance.[11]

F. Grievance Appeals to Ombudsman or Other Outside Appeal Sources

Appeals from actions taken by the administrator, under the above procedures, may be made to the parent agency ombudsperson or other outside appeal sources. Appeals should be initiated within 24 hours after the grievant receives the report on action taken by the administrator.

G. Training of Staff

It is imperative that staff receive training at least annually on recognized policies and procedures for the handling of discipline. This is the best assurance for operating an efficient institution and keeping grievance appeals to a minimum.[12]

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[11] American Correctional Association, Standards for Juvenile Training Schools and Standards for Juvenile Detention Facilities, Standards 2-9315 and 2-8333.

[12] American Correctional Association, Standards for Juvenile Training Schools and Standards for Juvenile Detention Facilities, Standards 2-9092 and 2-8093.

FIGURE 1

RULE VIOLATION REPORT

_____ Major _____ Minor

COTTAGE _____ DATE _____

RESIDENT'S NAME _____ TIME/PLACE _____

STAFF INVOLVED _____ RULE VIOLATED _____

OTHER RESIDENTS INVOLVED _____ _____

_____

DESCRIPTION OF INCIDENT (To include witnesses, evidence, and immediate action taken. Use additional pages as necessary.)

RECOMMENDED DISPOSITION:

SIGNATURES: Resident _____

Staff _____

FIGURE 2

DISCIPLINARY HEARING REPORT

NAME _____ DATE OF INCIDENT _____

COTTAGE _____ DATE OF HEARING _____

HEARING BOARD MEMBERS: ADVOCATE _____

_____ SPECIFIC RULE(S) VIOLATED:

_____ _____

_____

_____

i. Details of rule(s) violation:

ii. Testimony of witnesses:

iii. Evidence (physical/documentary):

iv. Resident's statement/testimony?

v. Findings:

vi. Disposition:

SIGNATURES: Chairperson _____

Resident _____

Advocate _____

Reviewed by: _____

FIGURE 3

DISCIPLINARY HEARING
APPEAL FORM

(If appeal is requested, this form must be received by Administrator within 24 hours of resident's receipt of written record of hearing.)

NAME _____ DATE _____

COTTAGE _____

I hereby appeal the (check one):

_____ findings

_____ disposition

_____ findings and disposition

that resulted from the hearing held on _____ concerning
date

_____.

The grounds for my appeal are as follows: (Appeals without grounds will be returned without action.)

SIGNATURES: Resident _____

Advocate _____

FIGURE 4

REPORT OF ADMINISTRATION*
ON APPEAL OF DISCIPINARY HEARING

NAME _____ DATE OF INCIDENT _____

COTTAGE _____ DATE OF APPEAL DECISION _____

APPEAL DECISION MADE BY: ADVOCATE _____

_____ SPECIFIC RULE(S) VIOLATED:

_____

1. Grounds for Appeal:

2. Findings:

3. Disposition:

SIGNATURES: Administrator _____

Resident _____

Advocate _____

*Report may be used by the administrator, assistant administrator, director of treatment, or by whomever receives and acts upon the appeal.

VII. PLANNING AN EFFECTIVE GRIEVANCE PROCEDURE SYSTEM

Basic Principles and Policies

The following principles and policies effect a sound approach to designing a workable grievance procedure mechanism:

1. Every resident assigned to any regular or special program unit and lockup should have the means to file grievance and make use of any grievance procedure that is developed.

2. Each facility should design a mechanism appropriate to its physical set-up, the age and size of its population, and the focus of its program. The mechanism should be subject to review and approval by the department or agency responsible for the facility.

3. There should be available to any resident with an emergency grievance or problem a course of action that can provide for immediate redress.

4. Elected residents and designated staff should participate in the development of procedures and in the operation of the grievance mechanism. This usually assures greater commitment to its success.

5. The mechanism employed should be simple and the levels of review kept to a minimum.

6. Residents should be entitled to representation and other assistance at all levels, including informal resolution within the established procedure.

7. There should be brief time limits for the receipt of all responses to a grievance, as well as for action that is required to relieve the grievance. Unnecessary delays should result in forwarding the grievance to the next level of the mechanism.

8. A course of action should be open to all parties to a grievance, staff and residents alike, for appealing a decision.

9. A juvenile should be guaranteed a speedy, written response to his or her grievance, with reasons for the action taken. In the absence of such a response there should be further recourse available to the juvenile.

10. Monitoring and evaluation of the entire operation by persons not connected with the facility should be required.

11. The procedure should include, as a final review, some form of independent review by a party or parties outside the department. Such review may be in the form of binding or nonbinding arbitration.

12. No reprisals should be permitted against anyone using the grievance mechanism.

13. The grievance mechanism should include an impartial method for determining whether a complaint falls within its jurisdiction.

14. Implementation of the grievance mechanism is a factor vital to its success. This calls for administrative leadership and commitment, resident and staff involvement, a strong orientation and explanation program for new residents, and outside monitoring.[13]

VIII. BASIC PRINCIPLES FOR IMPLEMENTATION OF A GRIEVANCE SYSTEM

A. Implementation Principles

It has been found that the following basic principles should be observed in the implementation of a grievance mechanism:

1. The administrator must spearhead the overall planning process.

   As in any institutional effort, the top administor plays key role in ensuring that planning and leadership are effective.

2. Training must be provided to all persons involved in the process.

   Training in the skills and techniques of investigation, hearing, mediation and grievance disposition must be provided to administrators, line staff, and residents who will be key participants in the procedure.

3. All staff and residents must be reoriented in the procedure and kept informed about its operations.

   Orientation must be a continuing process, carried out in a persuasive, effective manner.

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[13]Institute of Judicial Administration, American Bar Association, Juvenile Justice Standards. Standards Relating to Corrections Administration (Cambridge: Ballinger, 1979) 177-9.

4. Operations must be monitored and evaluated.

   Only by close monitoring on a departmental and institutional level can a grievance procedure be maintained effectively. This approach assures prompt attention to operational problems.

5. The mechanism should be implemented in stages.

   The mechanism should be tested in a single living unit or institution before being extended gradually to other living units and institutions.

B. The Process of Implementing a Grievance Mechanism

1. Initial Education

   Initial education begins when the facility's administrator decides to establish within his/her jurisdiction a mechanism based on the principles above, or to improve an existing mechanism in line with the principles. The education process continues throughout the design phase, and will become an integral part of implementation and operational plans.

   The administrator of a system should spend as much time as possible orienting institutional or program administrators and appropriate central office personnel before launching the actual implementation process.

   Depending on the size (and tendency to resist) of the target system institution or program, it may be useful to hold a seminar or workshop for key administrators. The seminar should be structured to explain basic concepts rather than to design a specific mechanism.

   Whatever methods are employed to convince administrators, staff, and residents of the value of a grievance mechanism, nothing will succeed like an operating mechanism that is effective and beneficial. This is the primary reason for the implementation principle of incrementalism. The imposition of a new program throughout an entire system can be counterproductive because all the latent hostility of staff and suspicions of residents can rise to meet the program with a surge of resistance. Persuasive efforts to achieve acceptance are necessarily spread thin, and the degree of neutrality required for a fair trial of the program is unlikely to be present.

   On the other hand, incremental implementation permits everyone to watch and evaluate the mechanism in operation on a manageable scale. If it is effective and fair, the power of example will win

the opportunity to work out administrative or other procedural problems before systemwide or institutionwide implementation, perhaps saving the administration from having to make unilateral changes accomplished at the cost of the procedure's credibility. And if the mechanism is plainly ineffective and unfair, the experiment can be terminated with a minimum of aroused expectations and subsequent frustration, or even if salvageable, drastically modified. Arguments for an incremental approach are equally persuasive whether a new mechanism is being introduced or an old one revamped.

Before beginning design work, and depending on the receptivity of the target site, it might be advisable to try further to win over key members of the line staff and resident population.

2. The Design Process

Much of the basis for success implementation of a grievance mechanism can be set during the design process. The key is the active participation of line staff and residents.

a. Selection of a design committee. Since the design committee will have the task of taking the design principles and molding, or remolding, a mechanism that conforms to the principles and needs, programs, physical layout and schedule of the target institutions or program, it is important that the committee members be selected carefully. They should be intelligent and articulate enough to deal comfortably with the relatively new concepts involved in the mechanism; they should be representative of a cross section of their respective constituencies; finally, it would help if they were, in some sense, leaders of the staff and resident communities.

b. The importance of line staff and inmate participation in design. The temptation is strong for administrators to retire to an office and construct a detailed procedures that will be capable of responding to most conceivable problems submitted to it. In this approach, only after the grievance mechanism has been worked out thoroughly in advance are residents and staff introduced to it. While imposing a system is administratively easy to accomplish, it rarely works, and consumes more staff and administrative time remedying problems which may not have otherwise occurred.

Early resident and staff participation in the design of a mechanism, on the other hand, produces many favorable results. It ensures that at least a basic cadre of residents and staff will have a thorough understanding of the mechanism's purpose and operations. In addition, those who participate in the design process develop a vested interest in working to see that "their"

mechanism succeeds. Almost always, the people selected to serve on the design committee fill key positions during the initial operations of the mechanism, and tend to serve with enthusiasm.

c. Design of an appropriate procedure. Particular kinds of programs or institutions may pose special problems in design. The most obvious problems arise from rapid turnovers, such as in detention facilities, and limited contact, as in parole or other community programs. There is no best way to handle such variations. The most successful mechanisms in these difficult situations generally have been designed directly by staff and residents involved in the program or unit, rather than by outside experts or central office administrators.

Another important aspect of design is respect for existing procedures and programs. As often as possible, the design should build on whatever already exists.

At the completion of its task, the design committee should have prepared a procedural blueprint detailed enough to inform any reader of the purpose, nature, jurisdiction, and operations of the grievance mechanism.

3. Training

The purpose of training should be to transfer to involved residents and staff knowledge of the grievance mechanism and the skills required for fulfillment of their roles and its operation.

At the first or second level of the grievance procedure, staff members and residents will meet to consider residents' complaints, from the viewpoint of their respective constituencies. In addition, there may be a nonvoting chairperson designated to preside over committee hearings. Finally, there may be resident grievance clerks with clerical responsibilities for the mechanism. The written version of the mechanism should spell out clearly the required qualifications, the method of selection, the tenure, and a method of recall for each position in order to avoid misunderstandings.

Training for participants in the first level of a grievance mechanism should take about two days. The most effective device for instructing committee members has proven to be simulated hearings involving extensive role-playing on the part of residents and staff. After an opening session in which principal administrators can reiterate their support and enthusiasm for the procedure, and discuss questions, the training should move immediately into simulations.

Following initial training, a continuing program of training should be established and maintained. A cadre of trainers for such a program should already exist among the initial committee members, chairpersons and clerks; they should be used extensively in establishing a permanent training program.

4. Orientation

A frequently neglected aspect of the implementation process is the adequate orientation of staff and inmates. Outsiders and administrators alike tend to assume that the circulation of written copies of a new policy or procedure is enough to inform everyone in a system or institution. The evidence sharply contradicts this assumption. One survey of grievance mechanisms in correctional institutions found that the majority of inmates questioned were uninformed about its operation and ignorant of its very existence. Obviously, residents cannot make effective use of a grievance mechanism which they know nothing about.

5. Monitoring

Any system aimed at curbing the abuses of a bureaucracy is liable to become flabby operationally after an initial period of enthusiasm passes. The principal danger is that the mechanism will be co-opted by the agency that is supposed to be policed.

Provision for recordkeeping is designed to permit effective monitoring. Monitoring of a correctional grievance mechanism must ensure that the operations of the mechanism conform to the design; prevent the occurrence of reprisals against residents who use the system; and ensure that decisions under the mechanism are carried out. While the first and third of these purposes are common to all administrative monitoring processes, the second is particularly important in correctional institutions. The fear of reprisals on the part of residents, whether or not objectively justified, is a perception that must be dealt with realistically and effectively. To allay that fear, it may be wise to rely on monitoring by individuals who, at a minimum, are not part of the institution or program and who, at best, are totally independent of the correctional structure which administers the system involved.

6. Administrators may institute grievance mechanisms for many reasons, however, determining whether a particular mechanism is meeting its intended objectives is not easy. Responding administrators in a 1973 survey of adult correctional institutions identified some of their objectives in establishing a variety of mechanisms:

   a. To provide all inmates with opportunities to voice grievances and receive an official response;

b. To assist management by identifying institutional problems;

c. To reduce inmate frustration;

d. To aid in the rehabilitation of inmates;

e. To reduce the level of violence in the institution; and

f. To reduce the amount of litigation.

Based on these stated objectives, two fundamental criteria for determining whether a grievance mechanism is working can be articulated. The first is volume: Do residents, in fact, use the mechanism to express and seek redress of their grievances? The second criterion is effect: Do complaints submitted result in clarification and change of policies?

These criteria are relative, flexible, and contingent. There is no absolute number of grievance submissions that, once achieved, make a mechanism successful. Thus, if residents are willing to use the mechanism available to them and submit numerous grievances, then that mechanism probably can be considered effective. If such a mechanism actually responds to the grievances submitted, and in addition, brings about clarification or change in living-unit, institutional, and departmental policies, then that mechanism clearly can be considered effective.[14]

Caution must be exercised, however, concerning the number of grievances submitted. An institution with a well-trained child care staff, with the right motivation, positive attitudes and a sound philosophy, obviously should have fewer grievances than a facility not so well-endowed with capable staff.

IX. DEFINED PROCEDURES FOR GRIEVANCE MECHANISM

Some agencies and facilities have one mechanism to handle all individual and systematic grievances. Hence, student collective complaints about policy or lack of it, problems arising from the application of departmental, institutional and program rules and regulations, disputes over rules, and program operations are handled by the same system which processes individual/case matters. In this presentation, however, we discuss each separately for the sake of those facilities which want to use two systems.

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[14]All basic materials used in Section VIII above were derived from The Center for Community Justice, 14-19.

A. Mechanism for Individual Case Matters

The following procedures are samples which may vary from system to system; but the principles on which they are based should appear in any system.

1. Grievance procedures for initially appealing disciplinary actions are outlined in Section VI of this manual, "Recognized Procedures for the Handling of Discipline."

2. Grievances concerning transfers, releases and any other individual/case matters will be handled as follows:

   a. Grievances will be submitted in writing (see Figure 5) by residents, and when necessary, assisted by other residents and/or staff who will write verbatim the oral statement made by the resident.

   b. The Grievance Form (retained in each living unit) will be submitted in a sealed envelope to the assistant administrator for processing.

   c. The assistant administrator will refer the grievance to the head of the department to which the complaint pertains; e.g., the director of education for a complaint about an unfair grade from a teacher because of "prejudice"; or to the juvenile parole supervisor on a complaint of delayed release because the officer failed to explore a designated referral. The department head will initiate an investigation within 24 hours.

   d. Within three working days, a grievance hearing will be held by a panel or committee composed of two representatives appointed by the department head, and two residents from the Student Grievance Committee (see Section IX B for details concerning its operations) selected by the chairperson. A fifth, nonvoting member shall be selected as chairperson/mediator of the resident-staff committee by the four members. See Appendix A, Controlled Confrontation: The Ward Grievance Procedure of the California Youth Authority, for details of that model approach.

   e. In preparing to present the grievance, the resident may choose as an advocate a staff person, a citizen volunteer or another resident, each of whom shall have had training in the grievance mechanism.

   f. The resident and staff representative involved in the complaint will each be given the opportunity to make oral or written statements, call witnesses, and present any other evidence. Cross-examination of witnesses shall be allowed.

g. A written report on the decision of the resident-staff grievance committee (see Figure 6) will be rendered to the resident within three working days.

h. Either party may appeal the decision to the director of treatment or a similar person. The appeal shall be in writing (see Figure 7), with reasons for the appeal fully outlined. If deemed necessary, all parties concerned may be called to appear before the director.

i. The answer to the appeal will be delivered in writing within three days to the parties involved (see Figure 8).

j. Any further appeals by either party following the process outlined above shall be made to the administrator of the facility; thereafter to the director of the parent agency, if one exists; an outside arbitrator chairing a three-person panel (see Appendix for details); and/or the jurisdiction's Ombudsman, if one exists.

The decision of the facility administrator shall be final and binding if there is no parent agency or Ombudsman; the director of any parent agency has the final say, whether or not an arbitrator is used, since the arbitration panel is advisory. However, in some jurisdictions, where such a mechanism exists, the Ombudsman's decision is final.[15]

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[15]The Oklahoma Public Welfare Commission, by statute, developed the Office of Advocate General in 1982, a system in which the Advocate General/Attorney monitors grievance procedures and hearings, supervises student defenders/representatives, investigates grievances which are not resolved at the facility level, investigates charges of abuse and/or neglect of juveniles in departmental facilities and performs other duties. The Oklahoma system was patterned after those in California and Texas, except for two major distinctions:

(1) the system extends to community-based placement (emergency shelter, foster, and group homes, and private contract residential treatment facilities); and

(2) a staff person, the Student Defender, exists in each of the four juvenile correctional institutions to ensure effective implementation of the grievance system.

For detailed information contact the Advocate General, Oklahoma Department of Human Services, PO Box 25352, Oklahoma City, OK 73125.

FIGURE 5

GRIEVANCE FORM

(This form is to be used for nondisciplinary grievances. For disciplinary matters use "Disciplinary Hearing Appeal Form.")

NAME _____ DATE _____

COTTAGE _____

My grievance is (outline what it pertains to):

The grounds/arguments for grievance are:

SIGNATURES: Resident: _____

Advocate: _____

FIGURE 6

GRIEVANCE HEARING REPORT
(For nondisciplinary matters)

NAME _____ DATE OF GRIEVANCE _____

COTTAGE _____ DATE OF HEARING _____

GRIEVANCE COMMITTEE MEMBERS: ADVOCATE _____

_____

_____

_____

_____

_____

i. Details of grievance

ii. Testimony of resident:

iii. Testimony of other witnesses (specify):

iv. Evidence:

v. Findings:

vi. Disposition

SIGNATURES: _____
(Chairperson/Moderator)

Resident _____

Advocate _____

Reviewed by: _____

FIGURE 7

GRIEVANCE APPEAL FORM

(Initial appeals from disciplinary actions will be processed on "Disciplinary Hearing Appeal Form." Nondisciplinary grievance and appeals from administrators' decision on disciplinary actions will be process on "Grievance Appeal Form" within 24 hours of receipt of written record of grievance hearing.)

NAME _____ DATE _____

COTTAGE _____

I hereby appeal the (check one):

_____ findings

_____ disposition

_____ findings and disposition

that resulted from the hearing held on _____ concerning
date

The grounds/arguments for my appeal are:

SIGNATURES: Resident _____

Advocate _____

FIGURE 8

GRIEVANCE APPEAL REPORT

(To be used by director of treatment, program director, assistant administrator or administrator in reporting on decisions made concerning appeals.)

NAME _____ DATE _____

COTTAGE _____

1. Grounds/arguments for appeal:

2. Findings:

3. Disposition

SIGNATURES: Decision-Maker _____

Resident _____

Advocate _____

B. Mechanism for Systemic Matters

The following procedures, samples which may vary from system to system, are founded on basic principles which should exist in any grievance mechanism developed:

1. The residents of each cottage will elect, on a quarterly basis, a representative, by a simple majority in a secret ballot procedure.

2. The administrator will designate a member of the staff to chair the committee and a staff person to take minutes.

3. Any issue may be brought before the committee. Issues should not be prescreened by anyone. The committee will determine if an issue is grievable. If there is a difference of opinion as to whether or not an issue is a valid grievance, a vote will be taken by the student representatives. A simple majority will determine grievability. Normally, the committee will meet weekly.

4. Any student may write directly to the administrator regarding any issue. These letters should be sealed and clearly marked, e.g., "Mr. Jones, Administrator." All such envelopes will be delivered unopened to the administrator.

5. Issues of a systemic nature will be referred by the administrator to the resident grievance committee for consideration.

6. Matters of an individual nature will be referred by the administrator to the appropriate staff for followup/resolution, or if within the realm of the resident grievance procedure system for individual/case matters, to its chairperson.

7. Issues of a personnel nature which are not systemic will be referred by the administrator to appropriate department heads for followup, with reports on action taken rendered to the administrator within five working days.

8. The administrator or appropriate designee will, within three working days, explain to the residents what action was taken on their complaint(s). In sensitive matters the minimal response will be verbal. Written responses will be made for nonsensitive matters. Written responses shall be made within three working days, with oral responses given within that time.

9. Grievances and suggested remedies will be submitted in writing to the administrator for resolution. Written responses to grievances will be returned to the committee within three working days.

10. The committee may submit the resolution, as received from the administrator, to the director of the parent agency, if one exists; to the Ombudsman for review and any necessary action, if an Ombudsman exists; or to an outside arbitrator who chairs a three-member panel.

    The decision of the facility administrator would be final, if there is no parent agency or Ombudsman. Likewise, the decision of the parent agency director is final, unless an Ombudsman exists (and the law or administrative order which has the force and effect of the law deems such final authority to exist).

X. OMBUDSMAN SYSTEM FOR GRIEVANCE APPEALS

A. Purpose

The Office of Ombudsman exists to promote the highest attainable standards of competence, efficiency, and justice in the administration of services for children and youths.

Some state juvenile agencies, e.g., California, South Carolina, New York and Colorado, have established grievance systems in which residents/students participate in the development of the systems. Some professionals feel that residents trust more those grievance procedure systems which they have helped established.

Ombudsman grievance systems do not involve resident participation in their development, engendering some reservations about them. However, the method has been considered quite successful over the years, e.g., in Minnesota, a pioneer in this concept. The Ombudsman system meets the basic requirement of such successful disciplinary/grievance procedure systems, i.e., an outside, final source of appeal.

B. Policy Statement

The Ombudsman program exists for the benefit not only of children, but parents and guardians, facility and parent agency employees, concerned citizens and contracting agencies, all of whom may submit grievances.

The Ombudsman's main goal is to promote the development of the best system of child care in the particular facility and parent agency, not supplanting but supporting full use of its regular discipinary and grievance procedure system.

It is the intention of the Ombudsman not to bypass established procedures, and every effort will be made to require grievants to exhaust the usual remedies before using the services of this office.

C. Procedures

1. Upon admission into juvenile detention and correctional facilities and programs, all youths will be oriented in the operations of the Ombudsman program. A copy of the Ombudsman Grievance Form (see Figure 9) will be given to all youths and their parents or guardian, together with a copy of Notice of Ombudsman Program (see Figure 10). Further, all staff of the facility or agency will be provided with copies of these documents and oriented in their use.

2. When staff are requested to provide a resident with a copy of the Ombudsman Grievance Form, staff should ask the youth what steps have been taken to date to resolve the grievance. If all steps and remedies have not been exhausted, it is incumbent upon staff to explain the remaining remedies. If the resident persists in moving ahead with a grievance presented to the Ombudsman, the proper form shall be provided without delay.

   The Ombudsman Grievance Form should be completed by the resident. S/he may seek assistance from any resident or staff person. Assistance should take the form of writing the oral statement verbatim.

   The form should then be placed in the envelope provided by the Ombudsman, sealed, and mailed or delivered.

3. Determination is then made as to whether the grievance is accepted for action by the Ombudsman. Declination may be based upon the fact that all remedies have not been exhausted in the facility or agency's grievance procedure system.

4. Investigation of the complaint shall begin within three working days after its receipt. Upon completion of the investigation, the complainant, administrative agency, and the official or employee involved shall be informed of action taken within three working days (see Figure 11).

5. If, after due consideration of the facts of the complaint the Ombudsman deems the complaint valid, s/he may recommend that the administrative agency:

   a. Consider the matter further;

b. Modify or cancel its action(s);

c. Change a regulation or ruling;

d. More fully explain the action in question; or

e. Take any other step which the Ombudsman recommends.

6. Upon request, the facility or agency shall, within the time limits specified, inform the Ombudsman of action taken or reasons for not complying with it.

7. If there is reason to believe that any public official or employee in the facility or agency has acted in a manner warranting disciplinary or criminal proceedings, such matters may be referred to the appropriate authorities.

8. Prior to publication of any recommendations, conclusions, or suggestions that expressly or implicitly criticize the agency or any person, the Ombudsman shall consult the agency and person involved. In adverse decisions, the Ombudsman shall include in such publication any statement of reasonable length by the agency or person in defense of the action.[16]

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[16]Various items referred to in this section were based on "Minnesota Ombudsman for Corrections Statute"; and John Poupart, Ombudsman for Corrections. Fiscal Year Annual Report, 1982-83. (St. Paul: State of Minnesota, 1983) 29 pages. Minnesota was the first state to appoint an independent Ombudsman for corrections in the U.S.A. (1972). The Ombudsman serves at the will of the governor and is selected without regard to political affiliation.

FIGURE 9

OMBUDSMAN GRIEVANCE FORM

(This form is generally to be used when regular grievance procedure remedies have been tried but grievant/complainant is not satisfied. Bypassing the regular channels for resolving a grievance may result in the Ombudsman's not accepting it for investigation.)

NAME _____ DATE _____

COTTAGE _____

ADDRESS _____
(If not a facility resident)

TELEPHONE NUMBER _____
(If not a facility resident)

My grievance is (outline what it pertains to):

The grounds/arguments for grievance are:

Has above grievance been presented to anyone before?

If yes, to whom? _____

What action was taken? _____

_____

SIGNATURES: _____
(resident/parent/guardian/staff)

_____
(advocate, if any)

FIGURE 10

(Name of Facility or Agency)

NOTICE OF OMBUDSMAN PROGRAM

PURPOSE: This notice is intended to inform residents/student of the (facility), their parents, guardians or foster parents; facility staff; personnel in agencies contracting with the facility and/or parent agency, or any other person or agency concerned with the operations of the facility and/or parent agency about the operation of the Ombudsman Program.

Who May File a Grievance: Any of the above parties may file a grievance with the Ombudsman, provided all other remedies have been tried, without obtaining satisfaction

What Complaints Are Considered: Any rule, policy, action, decision or condition made or permitted by the facility and/or parent agency, any division employee or any other person paid by the division to care for a youth in the division's custody.

When May a Grievance Be Filed: Grievance should be filed as soon as possible, and within five days of the action grieved.

How to File a Grievance: Obtain an Ombudsman Grievance Form from the living unit leader and complete it. Assistance may be obtained from another resident or staff person in processing it. It should then be placed in a sealed, self-addressed envelope provided for this purpose and mailed. Within a short period of time after your grievance is filed, an attempt will be made, with your participation, to resolve the problem. Thereafter, you will receive a written response to your complaints.

If anyone attempts to deny you the right to file a grievance, contact the Ombudsman and inform him.

I acknowledge that the contents of this notice were explained to me on _____ by _____.
(date)

_____ _____
(Resident) (Parent/Guardian)

FIGURE 11

(Name of Facility and/or Agency)

ACTION REPORT OF OMBUDSMAN

Date of Submission _____

Case Number _____ Resident's Name _____

Statement of Grievance _____

_____

_____

Resident's Proposed Resolution _____

_____

_____

Grievance Category Against _____ Program _____ Person _____

Disciplinary Action _____ Conditions _____

Resident's Signature _____ Date _____

Advocate _____
(Name) (Title)

- -

Resolution Grievance:

Proposed Resolution _____

_____

_____

Does grievant/resident/parent/staff person/other person accept resolution?

_____ Yes _____ No

Resident's Signature _____

Signature, Other Grievant _____

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APPENDIX

CONTROLLED CONFRONTATION

The Ward Grievance Procedure of the California Youth Authority

An Exemplary Project

Office of Technology Transfer
National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
U.S. Department of Justice

Prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, under contract number J-LEAA-014-74.

Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

For further information concerning the policies and procedures of the Ward Grievance Procedure of the California Youth Authority contact:

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1. *WHAT IS THE WARD GRIEVANCE PROCEDURE?*

All that was at issue was a beard.

And in prison, a beard is enough to cause tension and conflict. On one side was the Director of the California Youth Authority. He runs a correctional system which did not permit inmates to grow beards . . .

On the other side was a 21-year-old inmate of the Karl Holton school. He felt that inmates ought to be allowed to grow beards . . .

Their confrontation was noteworthy in three respects:

1. There was no violence.
2. There was no costly litigation.
3. The inmate won.

Even more remarkable, the ***way*** the matter was resolved enabled the Director to quickly alter departmental policy without losing prestige, authority or political power.

Fair Mediation

The inmate's victory was achieved before a three-party arbitration panel, presided over by a former Regional Director of the Federal Mediation and Conciliation service. They decided in favor of the inmate, two to one. And the California Youth Authority (CYA) Director accepted their mediation as fair.

Allen F. Breed, Director of California Youth Authority

The Real Victory

But the real victory went to both sides. They proved prison tensions can be eased, like industrial tensions, through negotiation and mediation.

What controlled the confrontation was a program: The Ward Grievance Procedure, a milestone experiment launched by the CYA.

(Don't let the words ward or youth authority mislead you. Recently over 50 percent of all CYA commitments have been from the adult criminal courts. Their crimes – assault, robbery and homicide – are similar to those of inmates in California's adult institutions, and the mean age at Karl Holton is 19.)

Grass Roots Breakthrough

The Ward Grievance Procedure is no longer just an experiment. The California Youth Authority has adopted WGP in every type of correctional institution. Large (1,200 wards) and small (25 wards). Rural (forestry camps) and urban (Los Angeles community houses). And in short-term reception centers.

In hundreds of cases, WGP has provided safe, sane channels for encounters over issues ranging from personal hygiene to constitutional rights.

WGP has two unique and formal features which promote success in situations where ombudsman programs and inmate councils have failed.

1. Grass roots problem-solving by line staff and inmates. They conduct open hearings ***together***, with equal decision-making authority.
2. Inmate appeal to outside arbitration.

The impact of WGP has gone beyond California. Procedures pioneered by WGP have spread to New York, Colorado, and South Carolina.

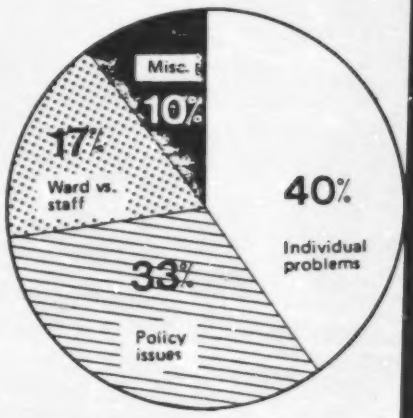
2. *WHAT KIND OF TENSIONS DOES WGP EASE?*

From September 1973 to April 1975, CYA classified WGP grievances in seven of sixteen institutions. The total, 1,496, breaks down into four areas:

1. ***Individual problems:*** A ward's complaint about how a rule was applied to him. 592 grievances (about 40 percent of the total).
2. ***Policy issues:*** A challenge of the rule itself. 498 grievances (about 33 percent).
3. ***Ward vs. staff:*** A ward's complaint about an arbitrary act by staff. 252 grievances (17 percent).
4. ***Miscellaneous:*** A ward's complaint about a fellow ward, faulty equipment, inadequate physical facilities. 154 grievances (10 percent).

Seriousness of Problem

Most of these grievances are common place issues. They are the kind that get serious only when people feel they aren't being taken seriously.



But the fact that WGP decisions are put in writing at each stage in the hearing and review process shows the grievant he is indeed taken seriously – win or lose.

BEST COPY

ke John S. at Youth Training
hool Ontario. He won.
Radios and record players would
be allowed on a nine-month trial
basis in Unit I beginning Novem-
ber 1, 1974.

did Phillip E. at Youth Training
hool Ontario.
The Impartial Review Panel cannot
effect a cure for the Grievant's
kin condition, nor can we insist
hat the doctor release profes-
ional medical records to the
atient himself, but . . . the YTS
octor will refer the Grievant to
he Riverside General Hospital for
reatment . . .

hur A. of Youth Training School
tario lost.
The School's policy of account-
ng for each individual at the 4:20
ount is reasonable, in the interest
f security, and should not be
hanged. The policy should be
vritten, available and clear . . .

Even in losing, Arthur A. won clarification of the policy he challenged. He won careful consideration of his complaint through three levels of review.

The methods that made this possible can be adapted by other corrections systems.

Grievant listening to his case being presented at YTS, Ontario

3. *HOW DOES WGP WORK ?*

The Ward Grievance Procedure works on three principles:

- The role of the confined is not just to file grievances, but to help settle them.
- Wards and the lowest level staff must work together to resolve disputes. Otherwise, solutions will work on paper but not in practice.
- Both sides must be able to turn to an independent party for an unbiased view.

Wards as Grievance Officials

Institutional guidelines specify that each living unit will elect grievance clerks from the ward population. The clerks have proved to be influential grass roots officials. From the department's point of view, they act as shop stewards, or "yard lawyers" providing counsel and leadership.

WGP allows grievants to have a representative of their choice. Often the chosen advocate is a grievance clerk.

Ward presenting case on behalf of other ward at YTS, Ontario

The grievant's first formal recourse is a hearing before his peers and an equal number of line staff. The basic structure of the Ward-Staff Committee was designed at Karl Holton by inmates, line staff and consultants from the Center for Correctional Justice, Washington, D.C. There are four voting members: Two wards and two staff members. The fifth member, drawn from middle management, serves as non-voting chairperson and mediator.

Naturally, the very existence of this "court" creates a climate for settling out of court. Many grievances are resolved informally, without the hearing.

A grievant has the right to appeal Ward-Staff Committee decisions to his Superintendent or, in some cases, the Director. The appeal serves a number of important purposes:

1. The prospect of administrative review puts added pressure on wards and line staff to work out meaningful resolutions.
2. Top management is brought into the grievance procedure. They get a chance to respond and a reason to stay interested in WGP.
3. Traditional stereotypes are shaken. Grievants find themselves appealing a decision of their peers to the Superintendent.

The third and final step brings an outside professional arbitrator into the picture. The arbitrator chairs a three-person panel in which one of the other two members speaks for the grievant and one for the administration.

The department, of course, retains the final say. But although the panel can only advise, the prestige of the arbitrator gives its actions imposing weight.

The CYA has been able to bring in top, well-known arbitrators, all on a volunteer basis.

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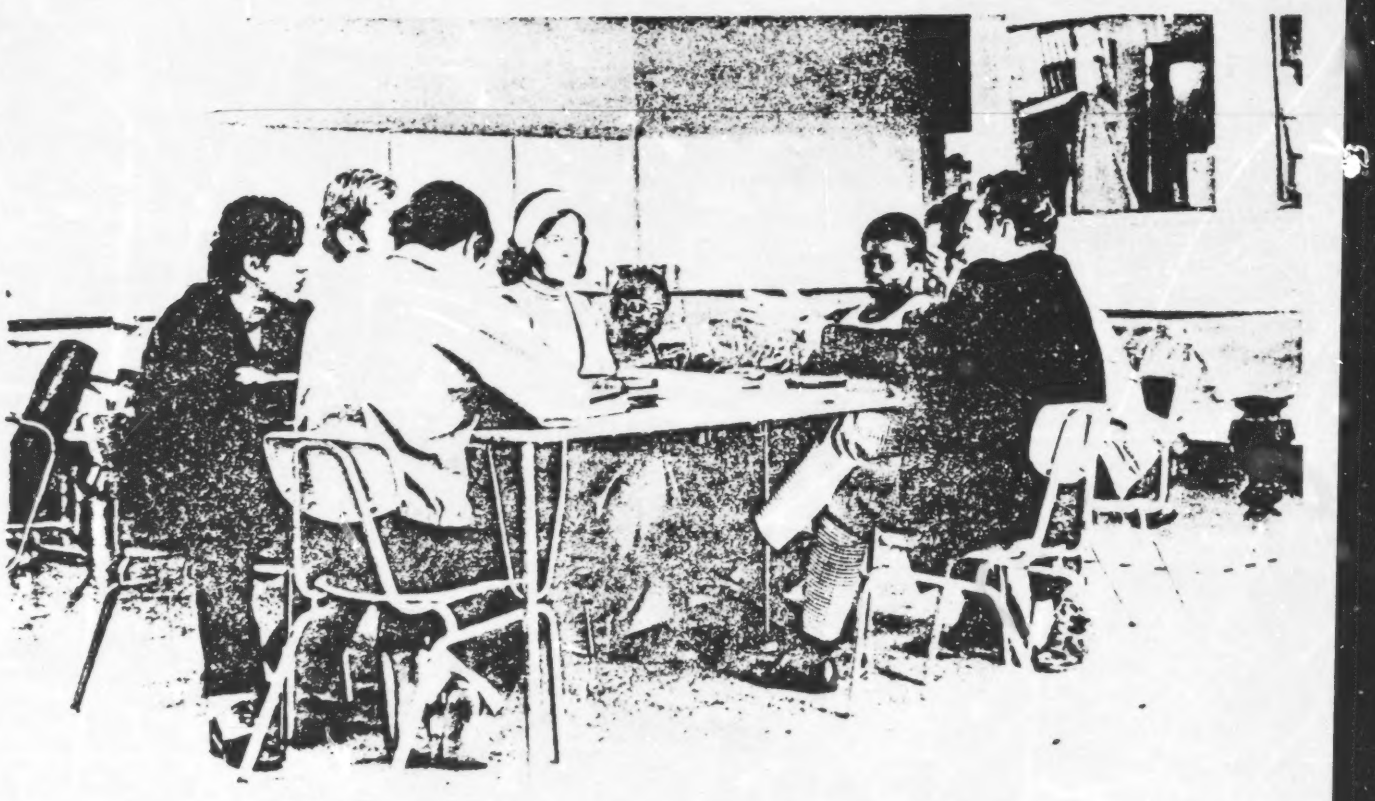


First-level grievance hearing at Karl Holton School

Safeguards

The CYA's carefully drawn guidelines for WGP specify that there will be no reprisals whatsoever for filing a grievance. What protects the ward – and wins his support – is the formality of the process. WGP permits no arbitrary acts. All decisions, regardless of level, must be put in writing. If the decision prescribes taking a specific action, the written response must set a deadline for acting.

4. WHAT'S THE WGP TRACK RECORD ?

The CYA's program of controlled confrontation has worked. WGP performance has exceeded expectations.

Successful Grievances

Wards have found they can change their environment through constructive, legal measures rather than angry confrontation. Statistics through April, 1975 show that a majority (51 percent) of grievance dispositions upheld the grievant. An additional 20.2 percent of the dispositions partially upheld the grievant through some sort of compromise. So wards have obtained redress about 70 percent of the time.

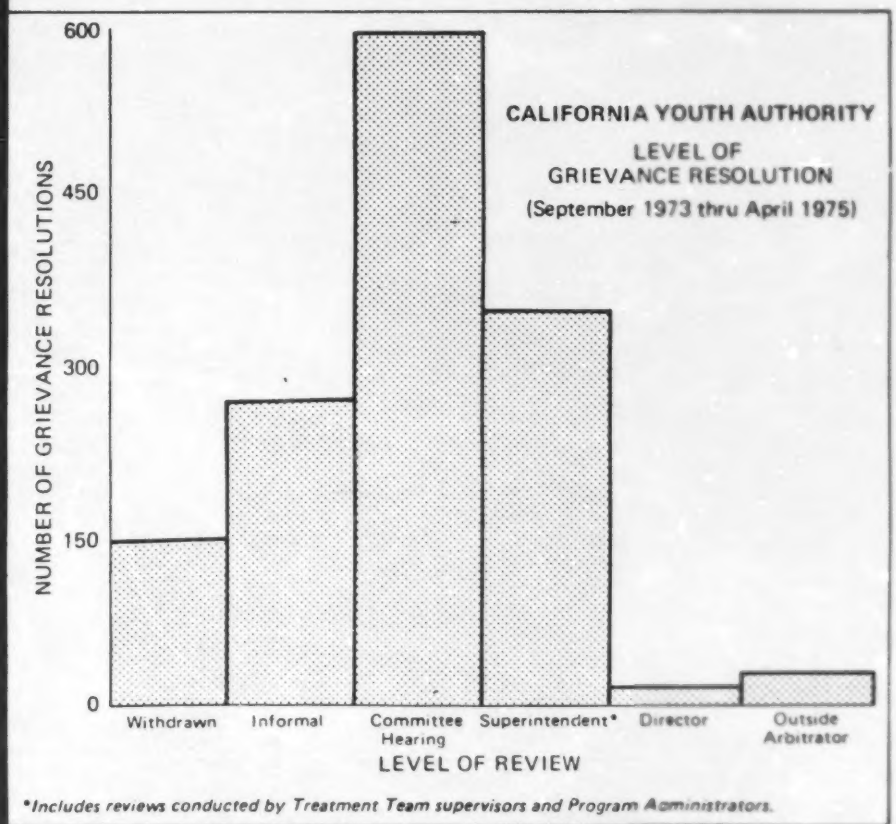
Ward-Staff Interaction

In the early days of WGP, both critics and supporters were pessimistic about the capability of wards and line staff to do anything but oppose each other. Yet there was no more important test of the program than its effectiveness in promoting constructive dialogue at the grass roots level.

Staff member and ward on grievance committee at YTS, Ontario.

WGP was a dramatic surprise, as the accompanying bar chart shows. Wards and staff talk to each other and work grievances out together. They work things out so well that, of the 1,421* grievances through April, 1975, nearly 200 were settled at the first level of review – the ward-staff committee meeting in the grievant's living unit. By far, the largest number of complaints were resolved at the first level.

*Excludes 75 cases pending.



*Includes reviews conducted by Treatment Team supervisors and Program Administrators.

Effect of Outside Arbitrators

The next largest number, over 350, were settled at the second level, the superintendent. This is understandable given the multitude of grievances filed on issues of policy.

Only 28 grievances, 2 percent of the total, needed outside arbitration to produce a settlement.

The 2 percent is encouraging for two reasons:

1. The percentage is so small it shows that the two in-house levels of review have performed productively.
2. The percentage is not so small as to render the outside arbitration provision insignificant. Wards know that arbitration is genuinely available if needed. This makes it easier to trust WGP at all levels.

Perhaps that's why about 20 percent of the grievances were resolved by ward and staff informally, prior to a

hearing by the grass roots committee.

Everyday Impact

The impact of WGP has gone beyond formal individual grievances into day-to-day personal relationships. WGP has created new roles of responsibility for wards, and fostered non-violent feedback.

Staff members say WGP builds staff competence, improves communication, and makes it easier to act favorably when a ward suggests something.

Meanwhile, wards who used to see staff as simply evil and repressive now tend to use milder descriptions, such as "over-burdened and inefficient."

So the WGP track record is excellent.

But what exactly makes it work, in practice as well as on paper?

5. *WHAT MAKES WGP WORK?*

It's fairly easy to see why WGP has performed so well in the CYA system. The key contributing factors stand the test of plain common sense as well as progressive correctional practice.

Inmates Must Participate

The CYA wards trust their grievance procedure because it wasn't imposed on them. Instead, they helped create it, participating actively in the design phase.

Highest Officials Must Support It

Industrial arbitration would be worthless if high corporate management had no commitment to the arbitration process. The same is true in a corrections environment. Without active, interested support from top CYA officials, the vital grass roots involvement would wither, training would slacken off, and the spirit would drain out of the entire program.

Make It Easy

People don't use channels of com cation unless they're easy to use. CYA takes pains to make filing, r presentation, and the rest of the cedure simple and accessible to a

Get Expert Advice

The CYA chose to invest in plann and design consultation from a g with known expertise in grievanc procedures, the Center for Corre tional Justice. The investment p off in productivity and efficiency

Inmates and Line Staff Must Col orate

A productive Ward-Staff Commi depends on line staff's acknowle ing that inmates can raise reason issues. And inmates must ackno ledge that line staff members are capable of proposing reasonable tions. The CYA got the two side gether in the design phase, and c

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tinues to promote the concept that WGP is by both and for both.

Train and Keep Training

Industry regards negotiation and mediation as a difficult science with exact, learned techniques. So does the CYA and its consultants, CCJ. They put critical emphasis, in the planning stage, on developing a strong training program. They sought and received help from the Institute for Mediation and Conflict Resolution, New York, New York.

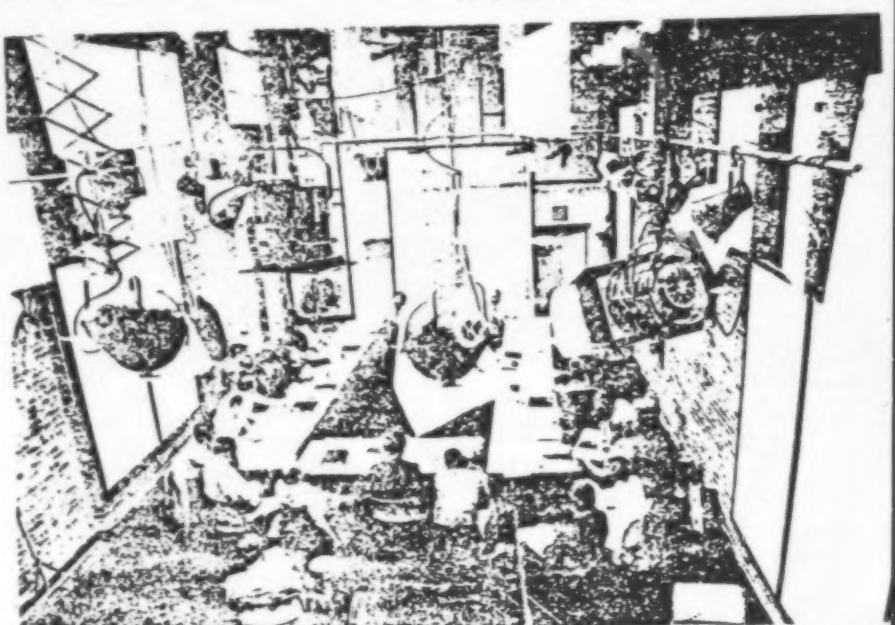
With WGP, training never stops. Slide shows, films, brochures and role-playing are used to introduce the program to new inmates and line staff, and to re-train veteran personnel.

Monitoring

The CYA insists on regular audits of every facet of WGP. The audit list includes ward participation, emergency grievance procedures, informal resolutions, reprisals, access to appeals, clerk duties and more. Each Superintendent must submit a monthly report on all of these areas.

An Investment

The best investment you can make in WGP is energy and enthusiasm. Now what about the money?



California corrections officials receiving training at Institute for Mediation and Conflict Resolution in New York.